

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MICHELLE CONDE, individually and as parent and)
next friend of AVA CONDE and DANIEL ANTHONY CONDE,)
and DANIEL MANUEL CONDE, individually,)
Plaintiffs,) CIVIL ACTION NO.
v.) 1:21-cv-11520
M.C. TANK TRANSPORT, INC., and)
FRANCIS MADONNA,)
Defendants.)

COMPLAINT AND DEMAND FOR JURY TRIAL

PARTIES

1. Plaintiff, Michelle Conde, is an individual over the age of eighteen residing in Wilmington, Middlesex County, Commonwealth of Massachusetts. She brings this action in her individual capacity and as parent and next friend of her two minor children, Ava Conde and Daniel Anthony Conde.
2. Plaintiff, Ava Conde, is a minor child residing in Wilmington, Middlesex County, Commonwealth of Massachusetts.
3. Plaintiff, Daniel Anthony Conde, is a minor child residing in Wilmington, Middlesex County, Commonwealth of Massachusetts.
4. Plaintiff, Daniel Manuel Conde, is an individual over the age of eighteen residing in Wilmington, Middlesex County, Commonwealth of Massachusetts. He and Michelle Conde are married and he is the natural father of Ava Conde and Daniel Anthony Conde.
5. Defendant, M.C. Tank Transport, Inc., is an Ohio corporation with a principal place of business at 10134 Mosteller Lane, West Chester, OH 45069.
6. Defendant, Francis Madonna, is an individual residing in Wilmington, DE. At all relevant times, Francis Madonna was acting as an employee of M.C. Tank Transport, Inc.

JURISDICTION AND VENUE

7. Jurisdiction is proper because under 28 U.S.C. § 1332 the amount in controversy exceeds \$75,000.00 and the matter in controversy is between citizens of different states.
8. Venue is proper because under 28 U.S.C. § 1391 a substantial part of the events or omissions giving rise to the claim occurred in the District of Massachusetts and a substantial part of property that is the subject of the action is situated in the District of Massachusetts.

FACTS

9. On March 19, 2019, at approximately 8:00 a.m., Michelle Conde was driving the family car northbound on Woburn Street in Wilmington, MA.
10. Michelle's daughter, Ava Conde (then age 7), was in the backseat.
11. Both Michelle and Ava were wearing their seatbelts.
12. The Conde vehicle was in good working order and condition.
13. The weather was clear and dry.
14. As Michelle approached the intersection of Woburn Street and Concord Street, she had a green light and proceeded through the green light and into the intersection.
15. At the same moment, a tanker truck owned and operated by Defendant M.C. Transport Inc., was traveling eastbound on Concord Street and came to the intersection of Woburn Street and Concord Street.
16. The truck was being operated by Defendant Francis Madonna, an employee of Defendant M.C. Transport Inc. who was working in his capacity as an employee at the time in question.
17. The truck had a red light.
18. The truck ran the red light and entered the intersection at full speed.
19. The front of the truck collided with the side of the Conde vehicle in the middle of the intersection, causing massive damage to the Conde vehicle and its occupants.
20. Both Michelle and Ava Conde were transported from the scene via ambulance to the emergency room.

21. State Police inspected the truck following the crash and found no mechanical issues with the truck.
22. Defendants were issued Citation No. T115160.
23. The Wilmington Police Department responded to the scene and completed a Police Report. The Police Report is attached hereto as Exhibit 1 and is incorporated by reference.
24. As a result of the collision, both Michella and Ava Conde have suffered and continue to suffer from severe personal injuries, including but not limited to, head, spine, neck, shoulder, and leg injuries; intense and long-lasting pain; past, present, and future medical treatment; physical therapy and other rehabilitation treatment; physical and mental pain and suffering; medical expenses; emotional distress; and impairment of their ability to enjoy life and attend to their usual activities.
25. Medical bills to date are well in excess of \$75,000.00.
26. Michelle's injuries have had a serious and ongoing impact on her marriage, including but not limited to her physical ability to care for and support and provide companionship for her husband. Plaintiff Daniel Conde, Michelle's husband, has suffered a loss of the society, companionship, and consortium of his wife.
27. Michelle's injuries have had a serious and ongoing impact on her ability to care for, support, and comfort her minor daughter, Ava, and also her minor son, Plaintiff Daniel Anthony Conde (age 15 on the date of the crash). Daniel Anthony Conde suffers from Fanconi Amenia and is also hearing impaired, and has always required a heightened degree of comfort, care, and attention from his mother.
28. Michelle and Daniel Manuel Conde have lost the consortium of their minor daughter, Ava, due to Ava's serious injuries.

MICHELLE CONDE'S CLAIMS AGAINST ALL DEFENDANTS

COUNT I
NEGLIGENCE

29. The plaintiff repeats and incorporates herein the allegations set forth in the preceding paragraphs.
30. On or about March 19, 2019, the defendants were negligent in the operation of their vehicle.
31. As a result of the collision, plaintiff suffered and continues to suffer from severe personal injuries.

32. At all times material herein, plaintiff was in the exercise of due care and free from all comparative negligence.

WHEREFORE, the plaintiff demands judgment against the defendant in the amount of her damages plus interest and costs.

COUNT II
LOSS OF CONSORTIUM

33. The plaintiff repeats and incorporates herein the allegations set forth in the preceding paragraphs.

34. As a result of the defendants' negligence, the plaintiff has lost the consortium of her minor daughter.

WHEREFORE, the plaintiff demands judgment against the defendant in the amount of her damages plus interest and costs.

AVA CONDE'S CLAIMS AGAINST ALL DEFENDANTS

COUNT III
NEGLIGENCE

35. The plaintiff repeats and incorporates herein the allegations set forth in the preceding paragraphs.

36. On or about March 19, 2019, the defendants were negligent in the operation of their vehicle.

37. As a result of the collision, plaintiff suffered and continues to suffer from severe personal injuries.

38. At all times material herein, plaintiff was in the exercise of due care and free from all comparative negligence.

WHEREFORE, the plaintiff demands judgment against the defendant in the amount of her damages plus interest and costs.

COUNT IV
LOSS OF CONSORTIUM

39. The plaintiff repeats and incorporates herein the allegations set forth in the preceding paragraphs.

40. As a result of the defendants' negligence, the plaintiff has lost the consortium of her mother.

WHEREFORE, the plaintiff demands judgment against the defendant in the amount of her damages plus interest and costs.

DANIEL MANUEL CONDE'S CLAIMS AGAINST ALL DEFENDANTS

COUNT V
LOSS OF CONSORTIUM

41. The plaintiff repeats and incorporates herein the allegations set forth in the preceding paragraphs.
42. As a result of the defendants' negligence, the plaintiff has lost the consortium of his wife and daughter.

WHEREFORE, the plaintiff demands judgment against the defendant in the amount of his damages plus interest and costs.

DANIEL ANTHONY CONDE'S CLAIMS AGAINST ALL DEFENDANTS

COUNT VI
LOSS OF CONSORTIUM

43. The plaintiff repeats and incorporates herein the allegations set forth in the preceding paragraphs.
44. As a result of the defendants' negligence, the plaintiff has lost the consortium of his mother.

WHEREFORE, the plaintiff demands judgment against the defendant in the amount of his damages plus interest and costs.

DEMAND FOR JURY TRIAL

The plaintiffs demand a jury trial on all claims herein.

Respectfully submitted,
Plaintiffs Michelle Conde, Ava Conde,
Daniel Anthony Conde, and Daniel Manuel Conde,
By their attorneys,

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